

In the Matter of Merchant Mariner's Document No. Z-81047-D8  
Issued to: FREDERICK THOMAS HEAVER

DECISION AND FINAL ORDER OF THE COMMANDANT  
UNITED STATES COAST GUARD

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FREDERICK THOMAS HEAVER

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations Sec. 137.11-1.

On 26 July, 1954, an Examiner of the United States Coast Guard at Boston, Massachusetts, suspended Merchant Mariner's Document No. Z-81047-D8 issued to Frederick Thomas Heaver upon finding him guilty of misconduct based upon a specification alleging in substance that he served as a Fireman-Watertender on board the American SS NORTH DAKOTA under authority of the document above described, from 8 April, 1953, to 2 August, 1953, although his document was suspended for a period of three months on 21 April, 1953, by a duly authorized Hearing Examiner at New York City.

At the hearing, Appellant was given a full explanation of the nature of the proceedings, the rights to which he was entitled and the possible results of the hearing. Although advised of his right to be represented by counsel of his own selection, Appellant voluntarily elected to waive that right and act as his own counsel. He entered a plea of "guilty with an explanation" to the charge and specification proffered against him.

Thereupon, the Investigating Officer made his opening statement and Appellant made a statement under oath. He admitted that he knew he had to have his document to sign articles for a coastwide voyage. But Appellant stated that the thought the Coast Guard wanted his document to keep him from sailing on foreign voyages.

At the conclusion of the hearing, having given both parties an opportunity to submit argument and proposed findings and conclusion, the Examiner announced his findings and concluded that the charge had been proved by plea to the specification. He then entered the order suspending Appellant's Merchant Mariner's Document No. Z-81047-D8, and all other licenses, certificates and documents issued to this Appellant by the United States Coast Guard or its predecessor authority, for a period of twelve months - six months outright and six months on probation until two years after the termination of the outright suspension.

This appeal is a request for leniency in which Appellant states that this suspension will cause hardship to his family;

Appellant is now living a Christian life and will continue to do so; he served throughout World War II on merchant vessels; and Appellant admits he did wrong and was guilty but asks for mercy.

Based upon my examination of the record submitted, I hereby make the following

#### FINDINGS OF FACT

From 8 April, 1953, until 2 August, 1953, Appellant was serving as a Fireman-Watertender on board the American SS NORTH DAKOTA and acting under authority of his Merchant Mariner's Document No. Z-81047-D8 after having signed the Shipping Articles on April, 1953, for a coastwise voyage.

Prior to 8 April, 1953, Appellant was served with an order suspending his Merchant Mariner's Document for 3 months outright and 3 months on 12 months probation. This order of the Coast Guard Examiner was worded so that the 3 months outright suspension was to become effective when Appellant deposited his document with the Coast Guard.

Pursuant to this order, Appellant mailed his document to the Coast Guard office at New York City and it was received there on 21 April, 1953. Appellant did not notify the Master or shipowners as to the status of his document; nor did he notify the Coast Guard that he continued to serve on a ship after surrendering his document.

On 21 July, 1953, Appellant went to the Coast Guard office in New York City to obtain his document and it was returned to him. Appellant continued to serve on the NORTH DAKOTA until the articles for the coastwise voyage were terminated on 2 August, 1953.

Appellant's prior disciplinary record consists of three suspensions and one admonition. These orders resulted primarily from offenses involving intoxication and failure to perform duties.

#### OPINION

Appellant's plea in mitigation will not be granted. It is unlawful for a person below the rating of a licensed officer to serve on board a merchant vessel of the United States without a document. 46 U.S.C. 672(i). Appellant admitted that he was wrong and guilty of this offense. With knowledge that he would have to surrender his document to the Coast Guard for a period of three months, Appellant attempted to evade the order of suspension by signing Shipping Articles while he had possession of his document and then continuing to serve on the ship from 21 April, 1953, to 21 July, 1953, on a suspended document. Obviously, this was a breach of the above statute.

After signing the articles with knowledge of the suspension order, Appellant was required to obtain his release from the ship by mutual consent before he surrendered his document or to wait and surrender his document upon the completion of the voyage for which he had contracted his services. The offense was aggravated by the fact that Appellant obtained the return of his document on 21 July, 1953, rather than waiting until three months after the completion of the voyage on 2

August, 1953. Since Appellant's course of conduct indicates that he did not even act in good faith in the latter respect, there is no basis for mitigation of the order and it will be sustained.

ORDER

The order the Examiner dated at Boston, Massachusetts, on 26 July, 1954, isAFFIRMED.

A. C. Richmond  
Vice Admiral, United States Coast Guard  
Commandant

Dated at Washington, D. C., this 4th day of January, 1955.